



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 211221-0266]

RIN 0648-BL04

Fisheries of the Exclusive Economic Zone Off Alaska; Reclassifying Sculpin Species in the Groundfish Fisheries of the Bering Sea and Aleutian Islands and the Gulf of Alaska; Correcting Amendment

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; correcting amendment

SUMMARY: The National Marine Fisheries Service is correcting regulations published in a final rule on July 10, 2020, which reclassified sculpins as Ecosystem Component (EC) category, non-target species in both the Bering Sea/Aleutian Islands (BSAI) (Amendment 121) and Gulf of Alaska (Amendment 110) Groundfish Fishery Management Plans (FMPs). In the implementing regulations, footnotes requiring the full retention of all rockfish species by catcher vessels (CVs) using hook-and-line, pot, or jig gear in the BSAI (Amendment 119) and Gulf of Alaska (Amendment 107) were unintentionally omitted from Tables 10 and 11 to 50 CFR part 679. This correcting amendment is therefore necessary to restore the footnotes as published in the final rule implementing Amendments 119 and 107 and to make other minor corrections.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Mason Smith, 907-586-7228.

SUPPLEMENTARY INFORMATION

Need for Correction

The National Marine Fisheries Service (NMFS) published a rule reclassifying sculpins as EC category, non-target species in both the BSAI (Amendment 121) and Gulf of Alaska (Amendment 110) Groundfish FMPs in the **Federal Register** on July 10, 2020 (85 FR 41427). This rule became effective on August 10, 2020. NMFS has identified footnote errors in that final rule within Table 10 to 50 CFR part 679 (Gulf of Alaska Retainable Percentages) and Table 11 to 50 CFR part 679 (BSAI Retainable Percentage). These tables, associated errors, and corrections to each table are discussed below.

Corrections to Table 10 to 50 CFR part 679 – Gulf of Alaska Retainable Percentages

Table 10 describes the maximum retainable amount (MRA) of groundfish in the Gulf of Alaska when NMFS prohibits directed fishing for those species. This table was modified in a rule published on July 10, 2020 (85 FR 41427), which reclassified sculpins in the Gulf of Alaska (Amendment 110) Groundfish FMP as EC category, non-target species. However, the implementing regulations unintentionally omitted footnotes from Table 10, which were added to Table 10 a few months prior in the final rule implementing Amendment 107 to the Gulf of Alaska Groundfish FMP.

The final rule implementing Amendment 107 was published on February 20, 2020 (85 FR 9687) and required the full retention of rockfish that are caught by CVs using hook-and-line, pot, or jig gear. Since the majority of rockfish do not survive capture, this amendment was intended to decrease waste in the fishery. In addition, Amendment 107 was intended to improve identification of rockfish species by vessels using electronic monitoring, reduce overall enforcement burden, and promote consistency between State and Federal fisheries. This correcting amendment is therefore necessary to restore the footnotes in Table 10, as published in the final rule implementing Amendment 107.

This correcting amendment makes the following corrections to Table 10:

- In the Notes to Table 10 to 50 CFR part 679, the following statement is restored under note 1 (Shortraker/rougheye rockfish): “Catcher vessels using hook-and-line, pot, or jig gear are required to retain all rockfish. See § 679.20(j);” and

- In the Notes to Table 10 to 50 CFR part 679, the following statement is restored under note 7 (Aggregated rockfish): “Catcher vessels using hook-and-line, pot, or jig gear are required to retain all rockfish. See § 679.20(j).”

In addition, after reviewing Table 10, NMFS determined that there are two minor additional errors that need to be corrected in Table 10:

- In Table 10 to 50 CFR part 679, amend note in header to read as: “for DSR caught on catcher vessels in the SEO, see § 679.20 (j);” and

- In Table 10 to 50 CFR part 679, the reference to note 9 is removed from the “n/a” in the cell at the intersection of the Pacific cod basis species row and the Pacific cod incidental catch species column.

Corrections to Table 11 to 50 CFR part 679 – BSAI Retainable Percentages

Table 11 describes the MRA of groundfish in the BSAI when NMFS prohibits directed fishing of those species. This table was modified in a rule published on July 10, 2020 (85 FR 41427), which reclassified sculpins in the BSAI (Amendment 121) Groundfish FMP as EC category, non-target species. However, the implementing regulations unintentionally omitted footnotes from Table 11, which were added to Table 11 a few months prior in the final rule implementing Amendment 119 to the BSAI Groundfish FMP.

Amendment 119 was implemented in a rule published on February 20, 2020 (85 FR 9687) and required the full retention of rockfish that are caught by CVs using hook-and-line, pot, or jig gear. Since the majority of rockfish do not survive capture, this amendment was intended to decrease waste in the fishery. In addition, Amendment 119 was intended to improve identification of rockfish species by vessels using electronic

monitoring, reduce overall enforcement burden, and promote consistency between State and Federal fisheries. This correcting amendment is therefore necessary to restore the footnotes in Table 11, as published in the final rule implementing Amendment 119. This correcting amendment makes the following corrections in Table 11:

- In Table 11 to 50 CFR part 679, a reference to footnote 9 is restored to the Shortraker/rougheye column header;
- In Table 11 to 50 CFR part 679, the following statement is restored to footnote 6: “Catcher vessels using hook-and-line, pot, or jig gear are required to retain all rockfish. See § 679.20(j); and
- In Table 11 to 50 CFR part 679, the following statement is restored to footnote 9: “Catcher vessels using hook-and-line, pot, or jig gear are required to retain all rockfish. See § 679.20(j).”

Classification

The NOAA Assistant Administrator (AA) for Fisheries finds there is good cause to waive the requirement to provide prior notice and opportunity for public comment on this action pursuant to the authority set forth at 5 U.S.C. 553(b)(B), as such requirement is unnecessary and contrary to the public interest. This correcting amendment corrects unintentional errors to Table 10 footnotes as well as the unintentional omission of footnotes to Tables 10 and 11, as described above. These revisions do not change operating practices in the fisheries, and is consistent with the Council’s intent for Amendments 107/119 and Amendments 110/121. During the public comment period for the rule requiring full retention of rockfish in the Gulf of Alaska and BSAI (85 FR 9687, February 20, 2020), the public was provided with notice and opportunity to comment, so additional opportunity for public comment at this point would not be meaningful. Additionally, these revisions are necessary to avoid public confusion from the

unintentional omissions and errors. Therefore, the AA finds good cause to waive the requirement to provide prior notice and opportunity for public comment.

For the same reasons stated above, the AA also finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date and make this rule effective immediately upon publication. Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., are inapplicable.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

This final rule is not significant for the purposes of Executive Order 12866.

List of Subjects

50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: December 21, 2021.

Samuel D. Rauch, III

Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is amended as follows:

**PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF
ALASKA**

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Pub. L. 108-447;

Pub. L. 111-281.

2. Revise Table 10 to Part 679—Gulf of Alaska Retainable Percentage, to read as follows:

Table 10 to Part 679—Gulf of Alaska Retainable Percentage

BASIS SPECIES		INCIDENTAL CATCH SPECIES (for DSR caught on catcher vessels in the SEO, see § 679.20 (j))																	
Code	Species	Pollock	Pacific cod	DW Flat (2)	Rex sole	Flathead sole	SW Flat (3)	Arrow-tooth	Sablefish	Aggregated rockfish ⁽⁷⁾	SR/RE ERA (1)	DSR SEO (C/Ps only) (5)	Atka mackerel	Aggregated forage fish ⁽⁹⁾	Skates (10)	Other species (6)	Grenadiers (12)	Squids	Sculpins
110	Pacific cod	20	n/a	20	20	20	20	35	1	5	(1)	10	20	2	5	20	8	20	20
121	Arrowtooth	5	5	20	20	20	20	n/a	1	5	0	0	20	2	5	20	8	20	20
122	Flathead sole	20	20	20	20	n/a	20	35	7	15	7	1	20	2	5	20	8	20	20
125	Rex sole	20	20	20	n/a	20	20	35	7	15	7	1	20	2	5	20	8	20	20
136	Northern rockfish	20	20	20	20	20	20	35	7	15	7	1	20	2	5	20	8	20	20
141	Pacific ocean perch	20	20	20	20	20	20	35	7	15	7	1	20	2	5	20	8	20	20
143	Thornyhead	20	20	20	20	20	20	35	7	15	7	1	20	2	5	20	8	20	20
152/ 151	Shortraker/ rougheye (1)	20	20	20	20	20	20	35	7	15	n/a	1	20	2	5	20	8	20	20
193	Atka mackerel	20	20	20	20	20	20	35	1	5	(1)	10	n/a	2	5	20	8	20	20
270	Pollock	n/a	20	20	20	20	20	35	1	5	(1)	10	20	2	5	20	8	20	20
710	Sablefish	20	20	20	20	20	20	35	n/a	15	7	1	20	2	5	20	8	20	20
Flatfish, deep-water ⁽²⁾		20	20	n/a	20	20	20	35	7	15	7	1	20	2	5	20	8	20	20
Flatfish, shallow-water ⁽³⁾		20	20	20	20	20	n/a	35	1	5	(1)	10	20	2	5	20	8	20	20
Rockfish, other (4)		20	20	20	20	20	20	35	7	15	7	1	20	2	5	20	8	20	20
172	Dusky rockfish	20	20	20	20	20	20	35	7	15	7	1	20	2	5	20	8	20	20
Rockfish, DSR-SEO (5)		20	20	20	20	20	20	35	7	15	7	n/a	20	2	5	20	8	20	20
Skates ⁽¹⁰⁾		20	20	20	20	20	20	35	1	5	(1)	10	20	2	n/a	20	8	20	20
Other species (6)		20	20	20	20	20	20	35	1	5	(1)	10	20	2	5	n/a	8	20	20
Aggregated amount of non-groundfish species ⁽¹¹⁾		20	20	20	20	20	20	35	1	5	(1)	10	20	2	5	20	8	20	20

Notes to Table 10 to Part 679				
1	Shortraker/rougheye rockfish			
		SR/RE	<i>Sebastes borealis</i> (shortraker) (152)	
			<i>S. aleutianus</i> (rougheye) (151)	
		SR/RE ERA	Shortraker/rougheye rockfish in the Eastern Regulatory Area (ERA).	
	Where an MRA is not indicated, use the MRA for SR/RE included under Aggregated Rockfish			
Catcher vessels using hook-and-line, pot, or jig gear are required to retain all rockfish. See § 679.20(j).				
2	Deep-water flatfish	Dover sole (124), Greenland turbot (134), Kamchatka flounder (117), and deep-sea sole		
3	Shallow-water flatfish	Flatfish not including deep-water flatfish, flathead sole (122), rex sole (125), or arrowtooth flounder (121)		
4	Other rockfish	Western Regulatory Area	means other rockfish and demersal shelf rockfish	
		Central Regulatory Area		
		West Yakutat District		
		Southeast Outside District	means other rockfish	
	Other rockfish			
	<i>S. aurora</i> (aurora) (185)		<i>S. variegates</i> (harlequin)(176)	<i>S. brevispinis</i> (silvergrey)(157)
	<i>S. melanostomus</i> (blackgill)(177)		<i>S. wilsoni</i> (pygmy)(179)	<i>S. diploproa</i> (splitnose)(182)
	<i>S. paucispinis</i> (bocaccio)(137)		<i>S. babcocki</i> (redbanded)(153)	<i>S. saxicola</i> (stripetail)(183)
	<i>S. goodei</i> (chilipepper)(178)		<i>S. proriger</i> (redstripe)(158)	<i>S. miniatus</i> (vermilion)(184)
	<i>S. crameri</i> (darkblotch)(159)		<i>S. zacentrus</i> (sharpchin)(166)	<i>S. reedi</i> (yellowmouth)(175)
	<i>S. elongatus</i> (greenstriped)(135)		<i>S. jordani</i> (shortbelly)(181)	
	<i>S. entomelas</i> (widow)(156)		<i>S. flavidus</i> (yellowtail)(155)	
	In the Eastern Regulatory Area only, Other rockfish also includes <i>S. polyspinis</i> (northern)(136)			
	5	Demersal shelf rockfish (DSR)	<i>S. pinniger</i> (canary)(146)	<i>S. maliger</i> (quillback)(147)
<i>S. nebulosus</i> (china)(149)			<i>S. helvomaculatus</i> (rosethorn)(150)	
<i>S. caurinus</i> (copper)(138)			<i>S. nigrocinctus</i> (tiger)(148)	
DSR-SEO = Demersal shelf rockfish in the Southeast Outside District (SEO). Catcher vessels in the SEO have full retention of DSR (see § 679.20(j)).				
6	Other species	Octopuses (870)	Sharks (689)	
7	Aggregated rockfish	Aggregated rockfish (see § 679.2) means any species of the genera <i>Sebastes</i> or <i>Sebastolobus</i> except <i>Sebastes ciliates</i> (dark rockfish), <i>Sebastes melanops</i> (black rockfish), and <i>Sebastes mystinus</i> (blue rockfish), except in:		
		Southeast Outside District	where DSR is a separate species group for those species marked with an MRA	
		Eastern Regulatory Area	where SR/RE is a separate species group for those species marked with an MRA	
		Catcher vessels using hook-and-line, pot, or jig gear are required to retain all rockfish. See § 679.20(j).		
8	n/a	Not applicable		

Notes to Table 10 to Part 679			
9	Aggregated forage fish (all species of the following taxa)	Bristlemouths, lightfishes, and anglemouths (family <i>Gonostomatidae</i>)	209
		Capelin smelt (family <i>Osmeridae</i>)	516
		Deep-sea smelts (family <i>Bathylagidae</i>)	773
		Eulachon smelt (family <i>Osmeridae</i>)	511
		Gunnels (family <i>Pholidae</i>)	207

		Krill (order <i>Euphausiacea</i>)	800
		Laternfishes (family <i>Myctophidae</i>)	772
		Pacific Sand fish (family <i>Trichodontidae</i>)	206
		Pacific Sand lance (family <i>Ammodytidae</i>)	774
		Pricklebacks, war-bonnets, eelblennys, cockscombs and shannys (family <i>Stichaeidae</i>)	208
		Surf smelt (family <i>Osmeridae</i>)	515
10	Skates Species and Groups	Alaska (<i>Bathyraja. Parmifera</i>)	703
		Aleutian (<i>B. aleutica</i>)	704
		Whiteblotched (<i>Raja binoculata</i>)	705
		Big Skates (<i>Raja binoculata</i>)	702
		Longnose Skates (<i>R. rhina</i>)	701
		Other Skates (<i>Rathyraja</i> and <i>Raja spp.</i>)	700
11	Aggregated non-groundfish	All legally retained species of fish and shellfish, including IFQ halibut, that are not listed as FMP groundfish in Tables 2a and 2c to this part.	
12	Grenadiers	Giant grenadiers (<i>Albatrossia pectoralis</i>)	214
		Other grenadiers (all grenadiers that are not Giant grenadiers)	213

3. Revise Table 11 to Part 679—BSAI Retainable Percentage, to read as follows:

Table 11 to Part 679—BSAI Retainable Percentage

BASIS SPECIES		INCIDENTAL CATCH SPECIES																			
Code	Species	Pollock	Pacific cod	Atka mackerel	Alaska plaice	Arrowtooth	Kamchatka	Yellow fin sole	Other flatfish ²	Rock sole	Flathead sole	Greenland turbot	Sablefish ¹	Short-raker/ rougheye ⁹	Aggregated rockfish ⁶	Squids ⁷	Aggregated forage fish ⁷	Other species ⁴	Grenadiers ⁷	Sculpins ⁷	
110	Pacific cod	20	na ⁵	20	20	35	35	20	20	20	20	1	1	2	5	20	2	20	8	20	
121	Arrowtooth	20	20	20	20	na	20	20	20	20	20	7	1	2	5	20	2	3	8	20	
117	Kamchatka	20	20	20	20	20	na	20	20	20	20	7	1	2	5	20	2	3	8	20	
122	Flathead sole	20	20	20	35	35	35	35	35	35	na	35	15	7	15	20	2	20	8	20	
123	Rock sole	20	20	20	35	35	35	35	35	na	35	1	1	2	15	20	2	20	8	20	
127	Yellowfin sole	20	20	20	35	35	35	na	35	35	35	1	1	2	5	20	2	20	8	20	
133	Alaska Plaice	20	20	20	na	35	35	35	35	35	35	1	1	2	5	20	2	20	8	20	
134	Greenland turbot	20	20	20	20	35	35	20	20	20	20	na	15	7	15	20	2	20	8	20	
136	Northern	20	20	20	20	35	35	20	20	20	20	35	15	7	15	20	2	20	8	20	
141	Pacific Ocean perch	20	20	20	20	35	35	20	20	20	20	35	15	7	15	20	2	20	8	20	
152/ 151	Shortraker/ Rougheye	20	20	20	20	35	35	20	20	20	20	35	15	na	5	20	2	20	8	20	
193	Atka mackerel	20	20	na	20	35	35	20	20	20	20	1	1	2	5	20	2	20	8	20	
270	Pollock	na	20	20	20	35	35	20	20	20	20	1	1	2	5	20	2	20	8	20	
710	Sablefish ¹	20	20	20	20	35	35	20	20	20	20	35	na	7	15	20	2	20	8	20	
Other flatfish ²		20	20	20	35	35	35	35	na	35	35	1	1	2	5	20	2	20	8	20	
Other rockfish ³		20	20	20	20	35	35	20	20	20	20	35	15	7	15	20	2	20	8	20	
Other species ⁴		20	20	20	20	35	35	20	20	20	20	1	1	2	5	20	2	na	8	20	
Aggregated amount non-groundfish species ⁸		20	20	20	20	35	35	20	20	20	20	1	1	2	5	20	2	20	8	20	

¹ **Sablefish:** for fixed gear restrictions, see § 679.7(f)(3)(ii) and (f)(11).

² **Other flatfish** includes all flatfish species, except for Pacific halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, Alaska plaice, arrowtooth flounder and Kamchatka flounder.

³ **Other rockfish** includes all “rockfish” as defined at § 679.2, except for Pacific ocean perch; and northern, shortraker, and rougheye rockfish.

⁴ The **Other species** includes sharks, skates and octopuses.

⁵ **na** = not applicable

⁶ **Aggregated rockfish** includes all “rockfish” as defined at § 679.2, except shortraker and rougheye rockfish. Catcher vessels using hook-and-line, pot, or jig gear are required to retain all rockfish. See § 679.20(j).

⁷ **Forage fish, grenadiers, squids, and sculpins** are all defined at Table 2c to this part.

⁸ All legally retained species of fish and shellfish, including CDQ halibut and IFQ halibut that are not listed as FMP groundfish in Tables 2a and 2c to this part.

⁹ Catcher vessels using hook-and-line, pot, or jig gear are required to retain all rockfish. See § 679.20(j).
[FR Doc. 2021-28232 Filed: 12/29/2021 8:45 am; Publication Date: 12/30/2021]